

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 JUSTIN DIJON MORRISON,

4 Plaintiff

Case No. 2:20-cv-01756-KJD-VCF

5 v.

6 UNKNOWN DEFENDANT 1 et al.,

7 Defendants

ORDER

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9 This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. §  
10 1983 by a state prisoner. On August 6, 2021, the Court issued an order dismissing the  
11 first amended complaint with leave to amend and directed Plaintiff to file a second  
12 amended complaint within 60 days. (ECF No. 6 at 8). The 60-day period has now  
13 expired, and Plaintiff has not filed a second amended complaint or otherwise responded  
14 to the Court's order.

15 District courts have the inherent power to control their dockets and "[i]n the  
16 exercise of that power, they may impose sanctions including, where appropriate . . .  
17 dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831  
18 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure  
19 to prosecute an action, failure to obey a court order, or failure to comply with local rules.  
20 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for  
21 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.  
22 1992) (affirming dismissal for failure to comply with an order requiring amendment of  
23 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal  
24 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of  
25 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming  
26 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,  
27 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with  
28 local rules).

1 In determining whether to dismiss an action for lack of prosecution, failure to obey  
2 a court order, or failure to comply with local rules, the court must consider several factors:  
3 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
4 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
5 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
6 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at  
7 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

8 Here, the Court finds that the first two factors, the public's interest in expeditiously  
9 resolving this litigation and the Court's interest in managing the docket, weigh in favor of  
10 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of  
11 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay  
12 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*  
13 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring  
14 disposition of cases on their merits—is greatly outweighed by the factors in favor of  
15 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
16 the court's order will result in dismissal satisfies the "consideration of alternatives"  
17 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779  
18 F.2d at 1424. The Court's order requiring Plaintiff to file a second amended complaint  
19 within 60 days expressly stated: "It is further ordered that, if Plaintiff does not file a second  
20 amended complaint within 60 days from the date of this order, the Court will dismiss this  
21 action without prejudice for Plaintiff to initiate a new action when he learns the identities  
22 of Doe #1 and Doe #2." (ECF No. 6 at 9). Thus, Plaintiff had adequate warning that  
23 dismissal would result from his noncompliance with the Court's order to file a second  
24 amended complaint within 60 days.

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1 It is therefore ordered that this action is dismissed without prejudice based on  
2 Plaintiff's failure to file a second amended complaint in compliance with this Court's  
3 August 6, 2021, order.

4 It is further ordered that the Clerk of Court will close this case and enter judgment  
5 accordingly.

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7 DATED THIS 14 day of October 2021.



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UNITED STATES DISTRICT JUDGE